

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FREEPLAY MUSIC, LLC,

Plaintiff,

v.

COASTAL STATES AUTOMOTIVE GROUP, LLC
(f/k/a North River Auto Mall, LLC, d/b/a New River
Auto Mall),

Defendant.

Civil Action No. _____

**COMPLAINT AND
JURY DEMAND**

Plaintiff Freeplay Music, LLC (“FPM”), through its undersigned attorneys, Baker Hostetler, LLP, complains of defendant Coastal States Automotive Group, LLC (“Coastal”), formerly known as New River Auto Mall, LLC, d/b/a New River Auto Mall:

Nature of the Action

1. By this complaint, FPM—a music publisher that has invested and risked money, time, and energy to develop its catalogue of copyrights—seeks redress for Coastal’s copyright infringement and unauthorized uses. Coastal has been exploiting, without authorization, 42 of FPM’s copyrighted sound recordings and compositions by incorporating them into videos, posted on 98 websites, for its own products. Despite being on notice of its infringement and unauthorized use, Coastal has refused to remedy its wrongdoing, leaving FPM no alternative but to bring this action.

Parties

2. FPM is a Delaware limited liability company, with a principle place of business in New York, New York.

3. Coastal is a Florida limited liability company, with a principle place of business in Hardeeville, South Carolina.

Jurisdiction and Venue

4. FPM's claims arise under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* Subject matter jurisdiction over this action is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338.

5. Venue in this District is proper under 28 U.S.C. § 1391.

6. The Court has personal jurisdiction over Coastal because it conducts systematic and continuous business over the Internet and has performed acts causing harm to FPM, including infringing copyrights belonging to FPM, a New York copyright holder, which give rise to this action.

FPM and Its Business

7. In 2001, Scott Schreer, one of America's most prolific and performed TV composers and producers, launched FPM, a high quality online music library. Schreer, whose credits include, among many others, the *NFL on Fox* theme, is also a contributing composer to a portion of FPM's catalogue.

8. FPM makes its catalogue available on its website. To download music a user must obtain a license that corresponds to the user's use (i.e., personal, commercial, etc.). The cost of such license varies depending on use.

9. With over 200,000,000 impressions to its website as of 2013, FPM is one of the most widely trafficked production music libraries in the industry. Since August 2013, FPM has issued over 2 million licenses to the copyrighted music in its library.

10. All use of FPM's music requires a license.

11. When a user logs on to FPM's website, <http://www.freeplaymusic.com/>, the user is presented with a variety of choices and thousands of musical works (i.e., sound recordings and the underlying musical compositions), all of which are available for certain types of exploitation. Once the user chooses the desired musical work and selects "Add to Cart," the user is prompted to choose a license type:

Duration	License Type	License Fee	Terms
06:16	Select Select YouTube Business Use- Youtube (unlimited URLs)(1 Year(s), \$250.00) Personal use on YouTube only(99 Year(s), \$0.00) Business Multimedia Unlimited (non-broadcast) [worldwide](1 Year(s), \$250.00) Music on Hold [single track](1 Year(s), \$25.00) Web Page Use(1 Year(s), \$100.00) Multimedia one use (non-broadcast) [worldwide](1 Day(s), \$50.00) Game/App Use(1 Year(s), \$150.00) Education In-Classroom Use(99 Year(s), \$0.00) Film Commercial Film Festival [track](7 Day(s), \$50.00) Commercial Unlimited Film Festivals [per track](1 Year(s), \$150.00) Student Film Festival (non commercial)(1 Year(s), \$0.99) Professional Use (per track)(1 Year(s), \$500.00) Indie trailer (theatrical and web) [US Only](1 Year(s), \$250.00) Internet Personal use (Social Media)- non promotional(99 Year(s), \$0.99)		Terms of Use <div>Add more Tracks</div> <div>Proceed to checkout</div>

12. The user cannot "Proceed to Checkout" without choosing a license type.

13. Once the user chooses a license and decides to "Proceed to Checkout," a window pops up displaying the "FPM License," requiring the user to enter an email address confirming that he or she has read the terms of the license. A copy of the license is then e-mailed to the confirmation address entered by the user.

14. Until July 2013, any exploitation of FPM's music "posted on a website" required a paid license. After July 2013, a user could obtain a free license to use certain music in FPM's catalogue on YouTube, provided it was for "personal use only." Any "business use" of FPM's music requires a paid license.

Coastal

15. Upon information and belief, Coastal is a holding company that owns New River Auto Mall (“NRAM”), a group of car dealerships serving U.S. southeastern coastal states. Upon information and belief, Coastal was formerly registered as New River Auto Mall LLC but changed its name on June 16, 2015.

16. Upon information and belief, NRAM purchases and sells used and new vehicles, parts and accessories and services vehicles.

17. Upon information and belief, Coastal and NRAM seek to market their products and serve their consumer audience through videos. The videos are available online, including, but not limited to, the Internet site hosted by YouTube.

The FPM Copyrights at Issue and Coastal’s Unauthorized Exploitation

FPM’s Copyrights

18. FPM is the owner of the registered copyrights (the “FPM Copyrights”) in and to the musical compositions and sound recordings (the “FPM Copyrighted Music”) set forth below:

- a. “Abilene,” covered by Registration No. SR 336-939 covering the collection *Blues Volume 1*.
- b. “Answers,” covered by Registration No. SR 374-912 covering the collection *Freeplay Music Corp./DVD #3*.
- c. “Appalachian Dance,” covered by Registration No. SR 333-618 covering the collection *World Mix Vo. 4*.
- d. “At Night,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- e. “Big Poppa,” covered by Registration No. SR 374-911 covering the collection *Freeplay Music Corp./DVD #4*.
- f. “Bouncing,” covered by Registration No. SR 333-651 covering the collection *Alternative Rock Volume 1*.

- g. “Burn Ticker,” covered by Registration No. SR 333-636 covering the collection *Business and Finance Volume 1*.
- h. “Canned Heat,” covered by Registration No. SR 336-939 covering the collection *Blues Volume 1*.
- i. “City Scape,” covered by Registration No. SR 374-911 covering the collection *Freeplay Music Corp./DVD #4*.
- j. “Cool Jungle,” covered by Registration No. SR 374-845 covering the collection *Freeplay Music Corp./DVD #2*.
- k. “Corn Liquor,” covered by Registration No. SR 337-057 covering the collection *Country Volume 1*.
- l. “Dixie Pickins,” covered by Registration No. SR 336-939 covering the collection *Blues Volume 1*.
- m. “Endless Road,” covered by Registration No. SR 333-631 covering the collection *Motivational Volume 1*.
- n. “Funky Peppers,” covered by Registration No. SR 411-915 covering the collection *Freeplay Music Corp./CD #10*.
- o. “Gangsta,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- p. “Going Gone,” covered by Registration No. SR 374-912 covering the collection *Freeplay Music Corp./DVD #3*.
- q. “Grunge Garage,” covered by Registration No. SR 333-651 covering the collection *Alternative Rock Volume 1*.
- r. “Hear me Calling,” covered by Registration No. SR 396-282 covering the collection *Freeplay Music Corp./DVD #9*.
- s. “Her Majesty,” covered by Registration No. SR 337-156 covering the collection *Motivational Volume 2*.
- t. “Highway Five,” covered by Registration No. SR 337-205 covering the collection *Pop Volume 2*.
- u. “I Hit The Sonic Wall,” covered by Registration No. SR 406-235 covering the collection *Freeplay Music Corp./CD #11*.
- v. “I Know How,” covered by Registration No. SR 396-282 covering the collection *Freeplay Music Corp./DVD #9*.

- w. “Jamaica,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- x. “Mr. Smith,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- y. “Oakland Soul,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- z. “Sideways Fusion,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- aa. “Sparkling,” covered by Registration No. SR 633-487 covering the collection *Freeplay Music CD #14*.
- bb. “Take Control,” covered by Registration No. SR 406-235 covering the collection *Freeplay Music Corp./CD #11*.
- cc. “Ticker Shock,” covered by Registration No. SR 333-636 covering the collection *Business and Finance Volume 1*.
- dd. “Walkin the Dog,” covered by Registration No. SR 337-201 covering the collection *Acid Jazz Volume 1*.
- ee. “Werewolf,” covered by Registration No. SR 633-492 covering the collection *Freeplay Music, LLC./CD #12*.

19. FPM is the owner of the copyrights in and to the musical compositions and sound recordings set forth below (“FPM Unregistered Music”), for which applications for copyright registration have been made to the U.S. Copyright Office and are pending registration:

- a. “Burning Man,” which is included in the pending copyright registration covering the collection *Electronic Fused Volume 15*.
- b. “Cloudburst,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- c. “Cliffhanger,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- d. “Confusion to Clarity,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- e. “Elliptical Revolution,” which is included in the pending copyright registration covering the collection *Electronic Fused Volume 1*.

- f. “Flee the Town,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- g. “Pod Bay Doors Full Version,” which is included in the pending copyright registration covering the collection *DJ Sets Vol. 1*.
- h. “Spanish Duet,” which is included in the pending copyright registration covering the collection *Spanish Guitar Volume 1*.
- i. “Twilight Zombies Remix,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- j. “Twilight Zombies Alt Remix,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.
- k. “Want to Explore,” which is included in the pending copyright registration covering the collection *Dubstep Fused Volume 1*.

Coastal’s Unlicensed Use of the Music Copyrights

20. Since March 1, 2011, Coastal has engaged in at least 98 uses of the FPM Copyrights and FPM Unregistered Music, including:

- a. FPM’s copyrighted musical work “Abilene” is exploited on the following websites: <http://www.youtube.com/watch?v=4KmG2u951aE>, <http://www.youtube.com/watch?v=4KmG2u951aE>, <https://www.youtube.com/watch?v=jOGOOhny5iyw>, and https://www.youtube.com/watch?v=6_5lMBZvP8U.
- b. FPM’s copyrighted musical work “Answers” is exploited on the following websites: http://www.youtube.com/watch?v=X_CEpKDF8Fc, <https://www.youtube.com/watch?v=bnyjpuYFyuA>, and <http://www.youtube.com/watch?v=fXB7nWT3DHU>.
- c. FPM’s copyrighted musical work “Appalachian Dance” is exploited on the following website: <https://www.youtube.com/watch?v=RqjX4icD-94>.
- d. FPM’s copyrighted musical work “At Night” is exploited on the following websites: <http://www.youtube.com/watch?v=Nyibo-TImUc> and <http://www.youtube.com/watch?v=Fw56mOdltLI>.
- e. FPM’s copyrighted musical work “Big Poppa” is exploited on the following website: <http://www.youtube.com/watch?v=ne55qDOISAI>.
- f. FPM’s copyrighted musical work “Bouncing” is exploited on the following website: <http://www.youtube.com/watch?v=LWtPU2-WN1o>.

- g. FPM's copyrighted musical work "Burn Ticker" is exploited on the following website: https://www.youtube.com/watch?v=4bFhRt_87Go.
- h. FPM's unregistered musical work "Burning Man" is exploited on the following websites: <https://www.youtube.com/watch?v=ddxkzjfib2Q> and <https://www.youtube.com/watch?v=6Jmk4GAnefl>.
- i. FPM's copyrighted musical work "Canned Heart" is exploited on the following websites: <http://www.youtube.com/watch?v=qZUdlRZWJwU> and <https://www.youtube.com/watch?v=y5D9pMPeoDU>.
- j. FPM's copyrighted musical work "City Scape" is exploited on the following websites: <http://www.youtube.com/watch?v=23aYa3ZnKjQ>, <http://www.youtube.com/watch?v=3J7DRjRLGsk> and <http://www.youtube.com/watch?v=6Frj2uYftpY>.
- k. FPM's unregistered musical work "Cloudburst" is exploited on the following websites: <http://www.youtube.com/watch?v=Nyibo-TImUc>, <http://www.youtube.com/watch?v=kSVqRemyIW0>, <http://www.youtube.com/watch?v=cET3HBXai-g>, <http://www.youtube.com/watch?v=zZbCtGPsb3E>, http://www.youtube.com/watch?v=3srPBVe_EII, <http://www.youtube.com/watch?v=j95LggDVN64>, <https://www.youtube.com/watch?v=hW3sKyxGJ5M>, and <https://www.youtube.com/watch?v=KYn2W2wZKJs>.
- l. FPM's unregistered musical work "Cliffhanger" is exploited on the following website: <http://www.youtube.com/watch?v=j95LggDVN64>.
- m. FPM's unregistered musical work "Confusion to Clarity" is exploited on the following website: <http://www.youtube.com/watch?v=kSVqRemyIW0>.
- n. FPM's copyrighted musical work "Cool Jungle" is exploited on the following website: <http://www.youtube.com/watch?v=fXB7nWT3DHU>.
- o. FPM's copyrighted musical work "Corn Liquor" is exploited on the following websites: <https://www.youtube.com/watch?v=pG0ShjXR3po> and <https://www.youtube.com/watch?v=KUqJWkSf9K8>.
- p. FPM's copyrighted musical work "Dixie Pickins" is exploited on the following websites: <http://www.youtube.com/watch?v=49n0xu7m07s> and <https://www.youtube.com/watch?v=okZjOd0Kuzo>.
- q. FPM's unregistered musical work "Elliptical Revolution" is exploited on the following website: <http://www.youtube.com/watch?v=8ZFHL5EnZgA>.
- r. FPM's copyrighted musical work "Endless Road" is exploited on the following website: <http://www.youtube.com/watch?v=ZYNn8c5BUOI>.

- s. FPM's unregistered musical work "Flee the Town" is exploited on the following websites: <http://www.youtube.com/watch?v=Nyibo-TImUc>,
<http://www.youtube.com/watch?v=re73gBgR0s8>,
<http://www.youtube.com/watch?v=zZbCtGPsb3E>,
<http://www.youtube.com/watch?v=WABCEhXaiuo>,
<https://www.youtube.com/watch?v=9-ziogHKzlM>,
<https://www.youtube.com/watch?v=ap1ubiipm3Q>,
<https://www.youtube.com/watch?v=FMst-TPoMhA>,
https://www.youtube.com/watch?v=_Yzdr42Tz50,
<https://www.youtube.com/watch?v=g6j1ISGviHk>,
<https://www.youtube.com/watch?v=dAu8tFo1K6w>,
<https://www.youtube.com/watch?v=NSizH7LzCpA>,
<https://www.youtube.com/watch?v=fr06uTUa5NY>, and
<https://www.youtube.com/watch?v=31AdkwErJsE>.
- t. FPM's copyrighted musical work "Funky Peppers" is exploited on the following website: <http://www.youtube.com/watch?v=Q-kIMtdj5Nk>.
- u. FPM's copyrighted musical work "Gangsta" is exploited on the following websites: <https://www.youtube.com/watch?v=KYn2W2wZKJs>,
<http://www.youtube.com/watch?v=4KmG2u951aE> and
<https://www.youtube.com/watch?v=zOqHKvIG0YQ>.
- v. FPM's copyrighted musical work "Going Gone" is exploited on the following website: <http://www.youtube.com/watch?v=67MdXGRR6s0>.
- w. FPM's copyrighted musical work "Grunge Garage" is exploited on the following website: <http://www.youtube.com/watch?v=8ZYZPpIurnE>.
- x. FPM's copyrighted musical work "Hear me Calling" is exploited on the following website: <http://www.youtube.com/watch?v=B6rKyQ9xlao>.
- y. FPM's copyrighted musical work "Her Majesty" is exploited on the following website: <http://www.youtube.com/watch?v=BbqnY-wTaJo>.
- z. FPM's copyrighted musical work "Highway Five" is exploited on the following website: https://www.youtube.com/watch?v=z_0P2RciIVE.
- aa. FPM's copyrighted musical work "I Hit The Sonic Wall" is exploited on the following website: <http://www.youtube.com/watch?v=hPXdZIRQTY8>.
- bb. FPM's copyrighted musical work "I Know How" is exploited on the following website: <http://www.youtube.com/watch?v=FDAKoISCQps>.
- cc. FPM's copyrighted musical work "Jamaica" is exploited on the following websites: <http://www.youtube.com/watch?v=ZOOIk1YK3Bg>,
<http://www.youtube.com/watch?v=4KmG2u951aE> and
<https://www.youtube.com/watch?v=uLKwrriSJOI>.

- dd. FPM's copyrighted musical work "Mr. Smith" is exploited on the following websites: <http://www.youtube.com/watch?v=ZOOIk1YK3Bg>, http://www.youtube.com/watch?v=_VeUOUhsivo and <https://www.youtube.com/watch?v=Y6lh9rW45VE>.
- ee. FPM's copyrighted musical work "Oakland Soul" is exploited on the following websites: <http://www.youtube.com/watch?v=Nyibo-TImUc>, <http://www.youtube.com/watch?v=Fw56mOdltLI>, <http://www.youtube.com/watch?v=3J7DRjRLGsk>, <http://www.youtube.com/watch?v=Q-kIMtdj5Nk>, and <http://www.youtube.com/watch?v=ahWT2iJwaKY>.
- ff. FPM's unregistered musical work "Pod Bay Doors Full Version" is exploited on the following websites: <https://www.youtube.com/watch?v=-L024bvejkm> and <https://www.youtube.com/watch?v=6cQTcVr4R9E>.
- gg. FPM's copyrighted musical work "Sideways Fusion" is exploited on the following websites: <http://www.youtube.com/watch?v=Wfrcmw9oJIw>, https://www.youtube.com/watch?v=_QUHGIHOrmE, <https://www.youtube.com/watch?v=S6WsrllMDTg>, and <https://www.youtube.com/watch?v=3MRHqRzoTNs>.
- hh. FPM's unregistered musical work "Spanish Duet" is exploited on the following website: <http://www.youtube.com/watch?v=Nyibo-TImUc>.
- ii. FPM's copyrighted musical work "Sparkling" is exploited on the following website: <https://www.youtube.com/watch?v=3MRHqRzoTNs>.
- jj. FPM's copyrighted musical work "Take Control" is exploited on the following website: <http://www.youtube.com/watch?v=bTaFvOjEkpE>.
- kk. FPM's copyrighted musical work "Ticker Shock" is exploited on the following website: <https://www.youtube.com/watch?v=qXIZNzcr72o>.
- ll. FPM's unregistered musical work "Twilight Zombies Remix" is exploited on the following websites: <http://www.youtube.com/watch?v=Nyibo-TImUc>, https://www.youtube.com/watch?v=Y4_U14DGC9o, <https://www.youtube.com/watch?v=AlPrEBDD2ak>, and <https://www.youtube.com/watch?v=xNqz1uW3MEQ>.
- mm. FPM's unregistered musical work "Twilight Zombies Alt Remix" is exploited on the following websites: <https://www.youtube.com/watch?v=K43DFNfK4Ec>, <https://www.youtube.com/watch?v=WuFbKaX2jms>, https://www.youtube.com/watch?v=4_Y7jvQb-WE, and <https://www.youtube.com/watch?v=10qAfn7hpQQ>.
- nn. FPM's copyrighted musical work "Walkin the Dog" is exploited on the following website: <https://www.youtube.com/watch?v=TTtopmCo8Ns>.

- oo. FPM's unregistered musical work "Want to Explore" is exploited on the following websites: <http://www.youtube.com/watch?v=3J7DRjRLGsk>, <https://www.youtube.com/watch?v=UEkQWIWzzKo>, <https://www.youtube.com/watch?v=GI8XCeJYpFg>, <https://www.youtube.com/watch?v=oTn6MH6ekJ0>, <https://www.youtube.com/watch?v=jqQQVv0Tsvo>, and <https://www.youtube.com/watch?v=cQTEKxn-T2Y>.
 - pp. FPM's copyrighted musical work "Werewolf" is exploited on the following website: https://www.youtube.com/watch?v=Q_pUYRTYMM8.
- 21. Upon information and belief, Coastal posted, or caused to be posted, the videos identified in paragraph 20.
 - 22. Coastal did not receive a license to exploit FPM's Copyrighted and Unregistered Music in the manner set forth in paragraph 20.
 - 23. Upon information and belief, Coastal copied and publicly performed FPM's Copyrighted and Unregistered Music through digital transmissions on the websites set forth in paragraph 20.
 - 24. Upon information and belief, at all relevant times, Coastal maintained editorial control for content performed and/or copied on the websites set forth in paragraph 20.

Count I:
Copyright Infringement

- 25. FPM incorporates the allegations set forth in paragraphs 1 through 24 hereof, inclusive, as though the same were set forth herein.
- 26. This cause of action arises under 17 U.S.C. § 501 and concerns the FPM Copyrights, but will include the Unregistered Music once registrations issue for those works as well.
- 27. Each of the FPM Copyrights has been registered with the United States Copyright Office.
- 28. Upon information and belief, each of the Unregistered Music will be subject to a copyright registration during the pendency of this action.

29. FPM owns all exclusive rights under 17 U.S.C. § 106 to the FPM Copyrighted Music and Unregistered Music.

30. Each of the musical works covered by the FPM Copyrights and each of the Unregistered Music is an original work and constitutes copyrightable subject matter within the meaning of 17 U.S.C. § 102.

31. FPM has never granted Coastal or otherwise authorized Coastal to exploit the musical works covered by the FPM Copyrights or the Unregistered Music.

32. Coastal's acts violate FPM's exclusive rights under 17 U.S.C. §106.

33. Coastal's infringement of the FPM Copyrights and the Unregistered Music is and has been willful, intentional, purposeful, and/or in disregard of FPM's rights.

34. FPM is entitled to its damages and Coastal's profits from the alleged infringement, in an amount to be proven at trial.

35. In the alternative, FPM is entitled to statutory damages, in an amount of up to \$150,000 per infringed copyright.

PRAYER FOR RELIEF

WHEREFORE, FPM respectfully prays for judgment against Coastal as follows:

- (a) for a ruling that Coastal has willfully infringed FPM's copyrights;
- (b) for injunctive relief prohibiting Coastal from exploiting the FPM Copyrighted music;
- (c) for FPM's damages and, to the extent not duplicative, Coastal's profits attributable to the infringement;

- (d) in the alternative to actual damages, for statutory damages under 17 U.S.C. § 504(c), in an amount of up to \$150,000 per work;
- (e) for FPM's costs of this action, including reasonable attorneys' fees under 17 U.S.C. § 505;
- (f) for prejudgment and post judgment interest; and
- (g) for such other and further relief as the Court deems proper and just.

DEMAND FOR JURY TRIAL

FPM requests a trial by jury on all issues so triable.

Respectfully submitted,

BAKER & HOSTETLER LLP

Dated: January 15, 2016
New York, New York

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